

1 AN ACT relating to involuntary termination of parental rights.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 625.090 is amended to read as follows:

4 (1) The Circuit Court may involuntarily terminate all parental rights of a parent of a
5 named child, if the Circuit Court finds from the pleadings and by clear and
6 convincing evidence that:

7 (a) 1. The child has been adjudged to be an abused or neglected child, as
8 defined in KRS 600.020(1), by a court of competent jurisdiction;

9 2. The child is found to be an abused or neglected child, as defined in KRS
10 600.020(1), by the Circuit Court in this proceeding;

11 3. The child is found to have been diagnosed with neonatal abstinence
12 syndrome at the time of birth, unless his or her birth mother:

13 a. Was prescribed and properly using medication for a legitimate
14 medical condition as directed by a health care practitioner that may
15 have led to the neonatal abstinence syndrome; or

16 b. Is currently, or within ninety (90) days after the birth, enrolled in
17 and maintaining substantial compliance with both a substance
18 abuse treatment or recovery program and a regimen of prenatal
19 care or postnatal care as recommended by her health care
20 practitioner throughout the remaining term of her pregnancy or the
21 appropriate time after her pregnancy; or

22 4. The parent has been convicted of a criminal charge relating to the
23 physical or sexual abuse or neglect of any child and that physical or
24 sexual abuse, neglect, or emotional injury to the child named in the
25 present termination action is likely to occur if the parental rights are not
26 terminated;

27 (b) 1. The Cabinet for Health and Family Services has filed a petition with the

1 court pursuant to KRS 620.180 or 625.050; or

2 2. A child-placing agency licensed by the cabinet, any county or
3 Commonwealth's attorney, or a parent has filed a petition with the
4 court under KRS 625.050; and

5 (c) Termination would be in the best interest of the child.

6 (2) No termination of parental rights shall be ordered unless the Circuit Court also finds
7 by clear and convincing evidence the existence of one (1) or more of the following
8 grounds:

9 (a) That the parent has abandoned the child for a period of not less than ninety
10 (90) days;

11 (b) That the parent has inflicted or allowed to be inflicted upon the child, by other
12 than accidental means, serious physical injury;

13 (c) That the parent has continuously or repeatedly inflicted or allowed to be
14 inflicted upon the child, by other than accidental means, physical injury or
15 emotional harm;

16 (d) That the parent has been convicted of a felony that involved the infliction of
17 serious physical injury to any child;

18 (e) That the parent, for a period of not less than six (6) months, has continuously
19 or repeatedly failed or refused to provide or has been substantially incapable
20 of providing essential parental care and protection for the child and that there
21 is no reasonable expectation of improvement in parental care and protection,
22 considering the age of the child;

23 (f) That the parent has caused or allowed the child to be sexually abused or
24 exploited;

25 (g) That the parent, for reasons other than poverty alone, has continuously or
26 repeatedly failed to provide or is incapable of providing essential food,
27 clothing, shelter, medical care, or education reasonably necessary and

1 available for the child's well-being and that there is no reasonable expectation
 2 of significant improvement in the parent's conduct in the immediately
 3 foreseeable future, considering the age of the child;

4 (h) That:

- 5 1. The parent's parental rights to another child have been involuntarily
- 6 terminated;
- 7 2. The child named in the present termination action was born subsequent
- 8 to or during the pendency of the previous termination; and
- 9 3. The conditions or factors which were the basis for the previous
- 10 termination finding have not been corrected;

11 (i) That the parent has been convicted in a criminal proceeding of having caused
 12 or contributed to the death of another child as a result of physical or sexual
 13 abuse or neglect;

14 (j) That the child has been in foster care under the responsibility of the cabinet
 15 for fifteen (15) cumulative months out of forty-eight (48) months preceding
 16 the filing of the petition to terminate parental rights; or

17 (k) That the child has been removed from the biological or legal parents more
 18 than two (2) times in a twenty-four (24) month period by the cabinet or a
 19 court.

20 (3) In determining the best interest of the child and the existence of a ground for
 21 termination, the Circuit Court shall consider the following factors:

22 (a) Mental illness as defined by KRS 202A.011(9), or an intellectual disability as
 23 defined by KRS 202B.010(9) of the parent as certified by a qualified mental
 24 health professional, which renders the parent consistently unable to care for
 25 the immediate and ongoing physical or psychological needs of the child for
 26 extended periods of time;

27 (b) Acts of abuse or neglect as defined in KRS 600.020(1) toward any child in the

- 1 family;
- 2 (c) If the child has been placed with the cabinet, whether the cabinet has, prior to
- 3 the filing of the petition made reasonable efforts as defined in KRS 620.020 to
- 4 reunite the child with the parents unless one or more of the circumstances
- 5 enumerated in KRS 610.127 for not requiring reasonable efforts have been
- 6 substantiated in a written finding by the District Court;
- 7 (d) The efforts and adjustments the parent has made in his circumstances,
- 8 conduct, or conditions to make it in the child's best interest to return him to his
- 9 home within a reasonable period of time, considering the age of the child;
- 10 (e) The physical, emotional, and mental health of the child and the prospects for
- 11 the improvement of the child's welfare if termination is ordered; and
- 12 (f) The payment or the failure to pay a reasonable portion of substitute physical
- 13 care and maintenance if financially able to do so.
- 14 (4) If the child has been placed with the cabinet, the parent may present testimony
- 15 concerning the reunification services offered by the cabinet and whether additional
- 16 services would be likely to bring about lasting parental adjustment enabling a return
- 17 of the child to the parent.
- 18 (5) If the parent proves by a preponderance of the evidence that the child will not
- 19 continue to be an abused or neglected child as defined in KRS 600.020(1) if
- 20 returned to the parent the court in its discretion may determine not to terminate
- 21 parental rights.
- 22 (6) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter
- 23 findings of fact, conclusions of law, and a decision as to each parent-respondent
- 24 within thirty (30) days either:
- 25 (a) Terminating the right of the parent; or
- 26 (b) Dismissing the petition and stating whether the child shall be returned to the
- 27 parent or shall remain in the custody of the state.